Introduced: June 10, 2019

Adopted: July 8, 2019

THE TOWNSHIP OF SOUTH ORANGE VILLAGE

ORDINANCE #2019-15

AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF SOUTH ORANGE VILLAGE, CHAPTER 294, SOLID WASTE AND RECYCLING, BY THE ADDITION OF SECTIONS PROHIBITING THE USE OF PLASTIC CARRY-OUT BAGS BY RETAIL ESTABLISHMENTS AND PROMOTING THE USE OF REUSABLE BAGS

Interpretive Statement

The purpose of this Ordinance is to promote the use of reusable bags and reduce the use of disposable paper and plastic non-reusable carry-out bags by retail establishments in the Township of South Orange Village.

WHEREAS, disposable plastic bags are briefly used, but are non-degradable and remain in the environment for decades without breakdown to organic material; and

WHEREAS, disposable plastic bags present a variety of environmental and public health hazards, including the pollution of waterways where some 346 marine species are adversely affected; and

WHEREAS, very few single-use carryout bags are actually recycled (it is estimated that less than 5% of all plastic bags are actually recycled and some estimates are as low as 1%); and

WHEREAS, all single use carry-out bags are wasteful, and while paper carry-out bags present adverse impacts on the environment, these impacts are less so than single use plastic carry-out bags because they naturally decompose in the environment while plastic bags degrade at a much slower rate and release toxic materials during that process as well as pollute waterways; and

WHEREAS, the Township of South Orange Village taxpayers currently bear the costs associated with the negative effects of plastic, single-use carryout bags on the solid waste stream, drainage, litter, and the negative consequences of the foregoing environmental impacts; and

WHEREAS, firms that process material to be recycled no longer accept disposable plastic bags; and

WHEREAS, the Board of Trustees of the Township of South Orange Village wishes to reduce the number of disposable paper and plastic checkout bags that are being burned, used, discarded and littered and to promote the use of reusable checkout bags by retail establishments located within the Township of South Orange Village; and

WHEREAS, the Board of Trustees of the Township of South Orange Village wishes to promote the use of reusable bags as carry-out bags in South Orange; and

WHEREAS, the legislature of the state of New Jersey, as of the date hereof, has failed to

NOW, THEREFORE, be it ordained, by the Board of Trustees of the Township of South Orange Village, a municipal corporation of New Jersey located in Essex County thereof, that Chapter 294 of the Code of the Township of South Orange Village, Solid Waste and Recycling, be amended as follows:

Section 1.

Chapter 294, Section 1 is hereby amended to add the following definitions:

Definitions.

CARRY-OUT BAGS – Bags that are provided by retail establishments to customers, at points of sale, to carry and/or transport purchased items. Carry-out bags include restaurant delivery and restaurant take-out bags.

COMPLIANT CARRY-OUT BAGS — The following bags are compliant carry-out bags:

A. Paper bags.

B. Reusable bags made of cloth or other washable material, with stitched handles that are specifically designed and manufactured for multiple reuse. A bag is suitable for multiple reuse if it is machine-washable or is made from a material that can be otherwise cleaned and disinfected.

CUSTOMER — Any person purchasing goods from a retail establishment.

"DOGGY BAGS" – Bags that are provided by eat-in restaurants when a customer takes home leftovers from the meal consumed in the restaurant.

OPERATOR — Persons in control of, or having the responsibility for the operation of a retail establishment.

PERSON — A natural person corporation, partnership, limited liability company or other form of business entity.

POINT OF SALE – The location where a retail establishment relinquishes legal possession of purchased goods to a customer, regardless of where and how payment for such goods is made.

RETAIL ESTABLISHMENT — Any store or commercial establishment that sells products, perishable or otherwise, directly to customers. Retail establishments include, but are not limited to, drug stores, pharmacies, supermarkets, grocery stores, convenience stores, restaurants, fast food establishments, clothing stores and hardware stores.

Section 2.

Chapter 294 is amended by the addition of the following new Sections 294-9 through 294-12:

Section 294-9, Plastic carry-out bags prohibited.

Retail establishments shall not provide customers with plastic carry-out bags. Retail Establishments shall only provide customers with compliant carry-out bags. Nothing contained herein shall prohibit the use of, or require a fee for, plastic bags or paper bags, at locations other than points of sale, for purposes that include but are not limited to the following:

A. Package bulk items, such as fruit, vegetables, nuts, grains, candies, or small hardware items;

B. Contain or wrap frozen foods, meat, or fish, whether packaged or not;

C. Contain or wrap flowers, potted plants, or other items where dampness may be an issue;

D. Contain unwrapped prepared foods or bakery goods;

E. Pharmacy prescription bags; or

F. Contain live animals, such as fish or insects sold in pet stores.

Section 294-10, Availability and use of compliant carry-out bags.

A. At points of sale all retail establishments shall make available to customers compliant carry-out bags. A fee shall be charged for paper bags as provided for in Section 294-11A. In their discretion retail establishments may charge a fee for reusable bags. All fees charged shall be reflected in sales receipts.

B. Nothing in this Chapter shall prohibit customers from using their own bags of any type to carry purchased goods from retail establishments, or from carrying goods without the use of a bag.

Section 294-11, Fees for provision of compliant carry-out bags.

A. All retail establishments shall make paper compliant carry-out bags available to customers, for a fee of at least $0.05 per paper bag, except that restaurants shall charge at least $0.05 per order for paper bags required for delivery or takeout purposes. Such fees may not be charged to:

1. Persons using the New Jersey State Supplemental Nutritional Assistance Program, EBT, or New Jersey State Special Supplemental Nutrition Program for Women, Infants and Children,
2. Senior citizens (65 years or older) with proof of age, or
3. For use of paper bags for gift wrapping or "doggy bags".

B. A retail establishment may provide customers with reusable carry-out bags for such sums, or gratis, as it may choose.

C. A retail establishment may choose, in its discretion, to provide a credit to customers that choose to bring their own bags.

D. Retail establishments shall retain all fees collected pursuant to this Section.

Section 294-12. Enforcement; violations and penalties.

The Township of South Orange Village's code inspection office is authorized to enforce violations of this Chapter.

A. Any retail establishment and/or operator that fails to comply with any of the requirements of this chapter shall be subject to the issuance of a Municipal Court complaint and the imposition of a fine as set forth below:

(1) First offense: Written Warning;

(2) Second offense $50;

(3) Third offense $200;

(4) Fourth and subsequent offenses $500.

B. A fine shall be imposed for each day a violation occurs or is allowed to continue.

C. Any operator in need of additional time to comply should contact Code Enforcement to request an extension. Such extension shall not extend beyond June 30, 2020.

Section 3.

Repealer.

All ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

Section 4.

This Ordinance shall take effect on January 1, 2020.

Section 5.

On passage this ordinance shall be codified.

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Introduction – First Reading

Trustee Member	Motion	Second	Ayes	Nays	Abstain	Absent
Clarke	X		X			
Coallier		X	X			
Hartshorn Hilton						X
Jones			X			
Schnall						X
Zuckerman			X			

CERTIFICATION

I, Kevin D. Harris, Village Clerk of the Township of South Orange Village, County of Essex, State of New Jersey, do hereby certify that this Ordinance was introduced on first reading by the Board of Trustees at their meeting held on June 10, 2019.

Kevin D. Harris
Village Clerk

Adoption – Second Reading

Trustee Member	Motion	Second	Ayes	Nays	Abstain	Absent
Clarke	X		X			
Coallier			X			
Hartshorn Hilton			X			
Jones						X
Schnall		X	X			
Zuckerman						X

CERTIFICATION

I, Kevin D. Harris, Village Clerk of the Township of South Orange Village, County of Essex, State of New Jersey, do hereby certify that this Ordinance was adopted on second reading by the Board of Trustees at their meeting held on July 8, 2019.

Kevin D. Harris
Village Clerk

Adopted:

Sheena C. Collum, Village President

Attest:

Kevin D. Harris, Village Clerk